

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,)	Criminal No.: 09-CR-10330-GAO
)	
v.)	
)	
(1) STRYKER BIOTECH, LLC,)	
(2) MARK PHILIP,)	
(3) WILLIAM HEPPNER,)	
(4) DAVID ARD and)	
(5) JEFFREY WHITAKER,)	
)	
Defendants.)	
)	

**JOINT STATEMENT CONCERNING PRETRIAL
SCHEDULE AND LOCAL RULE 117.1 INITIAL PRETRIAL CONFERENCE**

The United States of America and Defendants Stryker Biotech, LLC, Mark Philip, William Heppner, David Ard and Jeffrey Whitaker (the “Defendants”) (collectively, the “Parties”) submit this joint statement pursuant to Local Rule 117.1 and in anticipation of the initial pretrial conference scheduled for September 15, 2011.

1. The Parties have agreed to the following dates and submit them for the Court’s consideration.
 - a. On October 7th, the Parties file motions in limine.
 - b. On October 17th, the Government files its exhibit list.
 - c. On October 18th, the Parties file oppositions to motions in limine.
 - d. On October 21st, the Parties file reply briefs in support of motions in limine, if necessary.
 - e. On October 24th, the Parties file trial briefs and proposed voir dire questions, and the Defendants file their exhibit list.

- f. During the week of October 24th, the Court conducts the Local Rule 117.1(11) Second Pretrial Conference to address remaining pending motions and other pre-trial issues.
 - g. On October 31st, the Parties file proposed jury instructions and any stipulations.
 - h. On October 31st, the Government files its witness list.
 - i. On November 4th, the Defendants file their witness list.
- 2. The Parties have not reached agreement with regard to the necessity or timing of a Daubert hearing. If the Government's motion-in-limine regarding the expert testimony of Drs. Caton and Grauer is not granted, the Government seeks a Daubert hearing pre-trial, at a time convenient to the Court, possibly during the Second Pretrial Conference. Defendants oppose both the Government's motion and request for a Daubert hearing, and propose if a hearing is allowed, the hearing be held during the course of the trial immediately preceding the experts' testimony.
- 3. At the conference, the Parties would also like to discuss with the Court:
 - a. The length of trial, trial schedule and logistics, electronic evidence and JERS requirements;
 - b. The status of pending motions to dismiss;
 - c. The timing of resolution of recently-filed motions;
 - d. The Court's practice with regard to possible preliminary jury charges addressing legal issues; and
 - e. Outstanding discovery issues.

Respectfully submitted,

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Dated: September 14, 2011

CERTIFICATE OF SERVICE

I, Susan G. Winkler, hereby certify that this motion and its attachments filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper or electronic copies will be sent to those indicated as nonregistered participants on September 14, 2011.

By/s/ Susan Winkler

Dated: September 14, 2011